

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF PUERTO RICO

SERGIO DE HOYOS, et al., *
Plaintiffs, *
*
v. *
*
*
BRISTOL LABORATORIES CORP., *
Defendants. *

CIVIL NO. 99-1024 (PG)

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U.S. DISTRICT COURT
U.S. SAN JUAN, P.R.

OPINION AND ORDER

The matter before the Court are motions to dismiss filed by Rafael Cruz (Docket No. 7), Rosa Beatriz Sanabria and her husband Roberto Matias (Docket No. 10) and Aida Cruz (Docket No. 14). Defendants request the dismissal of the complaint for failure to serve within the 120-day period provided by Rule 4(m) of the Federal Rules of Civil Procedure. All of them filed a joint motion asking the court to consider the motions to dismiss which remain unopposed. (Docket No. 15).

Rule 4(m) requires that a plaintiff serve a defendant with a copy of the summons and complaint within 120 days after filing the complaint. If the plaintiff fails to do so and does not show good cause for the failure, the district court may dismiss the action without prejudice.

The record shows that plaintiffs filed their complaint on January 13, 1999, and did not properly serve Rafael Cruz, Rosa Beatriz Sanabria, her husband, and Aida Cruz within 120 days. The

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record also does not indicate any good cause shown for the failure. Therefore the court shall dismiss the action without prejudice as to the above named defendants. Fed. R. Civ. P. 4(m); See also Benjamin v. Grosnick, 999 F.2d 590 (1st Cir. 1993), cert denied, Grosnick v. Embriano, 510 U.S. 1112 (1994).

WHEREFORE, in view of the above the Court hereby grants defendants' motions to dismiss. (Dockets Nos. 7, 10 and 14) and grants defendants' motion requesting that court consider the unopposed motions (Docket No. 15).

IT IS SO ORDERED.

San Juan, Puerto Rico, January 21, 2000.

Juan M. Perez-Gimenez
JUAN M. PEREZ-GIMENEZ
U.S. District Judge